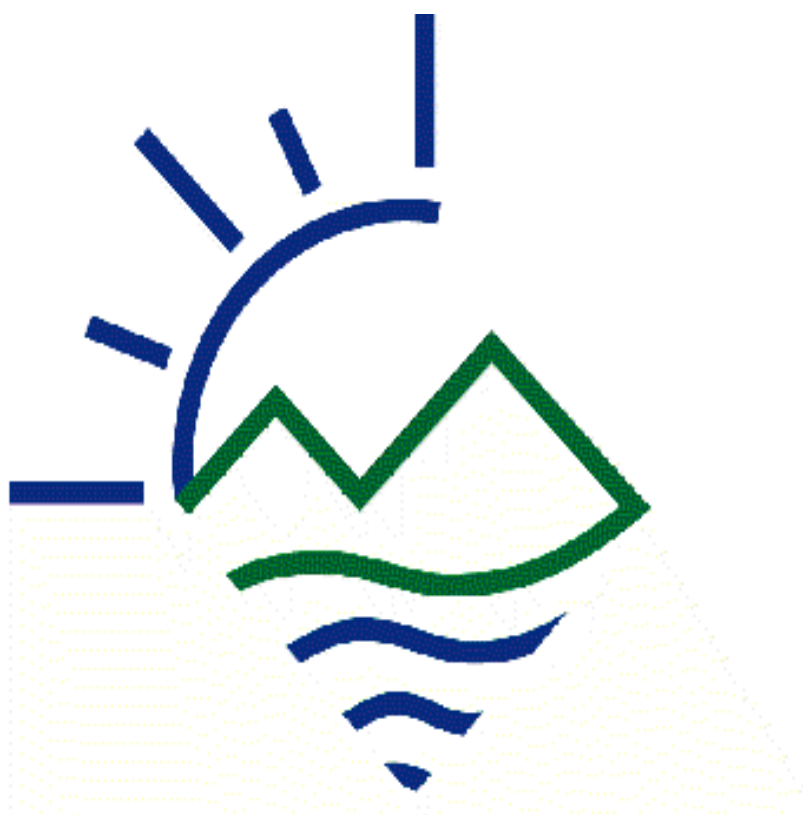


Legislative Mandates 2010

*A compilation of new mandates and statutory
changes affecting DTSC programs*



November 2010

**Department of Toxic Substances Control
Maziar Movassaghi
Acting Director**

INTRODUCTION

This publication serves to inform Department of Toxic Substances Control (DTSC) staff of new legislatively mandated activities and important statutory changes resulting from legislation enacted in the final half of the 2009/2010 Legislative Session.

Some of the described changes are provided for information only, such as noting new or revised requirements or procedures that affect applied standards or the way DTSC operates. Other changes describe more direct requirements, such as mandates upon DTSC to develop regulations, prepare a report, establish a new program, or modify an existing program.

The descriptions provided in this publication are not binding. Staff should consult the actual bill language (which can be accessed through the Internet links provided) for exact changes to the statutes.

Bills with an urgency clause take effect on the date they are chaptered; bills without an urgency clause take effect on January 1, 2011. Bills may also specify that their provisions take effect at a later date or designate a specific date by which an activity must be completed.

Questions about specific implementation plans and activities should be referred to the affected programs identified in this publication. Questions regarding the information in this publication can be referred to any of the legislative staff in DTSC's Office of Policy (see below). Suggested changes to this publication are also welcome.

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INDEX OF **BILLS AFFECTING DTSC PROGRAMS BY BILL NUMBER**

Bill No.	Author	Description	Chapter	Affected Program(s)
AB 1930	De La Torre	Hazardous Waste: Glass Beads	Chapter 368	Enforcement, P2
AB 2379	Feuer	Environmental Protection: Hazardous Waste Source Reduction	Chapter 386	P2
AB 2738	Niello	Regulations: Agency Statement of Reasons	Chapter 398	Policy
SB 346	Kehoe	Hazardous Materials: Motor Vehicle Brake Friction Materials	Chapter 307	Enforcement, P2
SB 855	Committee on Budget and Fiscal Review	Resources: funding	Chapter 718	Admin
SB 929	Pavley	Hazardous Materials: Children's Jewelry: Heavy Metals	Chapter 313	Enforcement, P2

Legend

Admin	Administrative Services
Cleanup	Brownfields and Environmental Restoration Program
CUPA	Certified Unified Program Agency
Enforcement	Enforcement & Emergency Response Program
P2	Office of Pollution Prevention and Green Technology Program
Policy	Office of Policy

SUMMARIES OF BILLS AFFECTING DTSC





AB 1930, Chapter 368, Statutes of 2010 (De La Torre) – Hazardous Waste: Glass Beads

AFFECTED PROGRAM(S): Enforcement, P2



New Program or Requirements



Additional Requirements for an Existing Program



Information Only



Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1901-1950/ab_1930_bill_20100927_chaptered.pdf

Summary:

AB 1930 prohibits, until January 1, 2015, the manufacture, sale or offer for promotional purposes of glass beads that contain more than 75 parts per million (ppm) of arsenic or 100 ppm of lead.

Specifically, this bill:

- Prohibits a person from manufacturing, selling, offering for sale, or offering for promotional purposes in this state glass beads that contain more than 75 ppm of arsenic and 100 ppm of lead by weight if the glass beads are to be used with pressure, suction, or wet- or dry-type blasting equipment.
- Requires that the weight percentage of arsenic and lead be determined in accordance with EPA 3052 and EPA 6010C or a generally accepted instrumental method with traceable standards such as X-Ray Fluorescence (XRF).
- Requires that containers or bags of glass beads sold in California that are used for surface preparation be labeled with the following:
 - Glass bead contents contain less than 75 ppm arsenic and 100 ppm lead, as determined by EPA 3052 and EPA 6010C or a generally accepted instrumental method with traceable standards.
- Sunsets on January 1, 2015.

Departmental Mandate(s):

- Requires DTSC to investigate and respond to non-compliance with the glass bead labeling requirements, and the glass bead lead and arsenic content standards.
- Establishes that the enactment of the glass bead requirements does not prevent DTSC from evaluating glass beads as a product through its Safer Consumer Product Alternatives regulations.



AB 2379, Chapter 386, Statutes of 2010 (Feuer) – Environmental Protection: Hazardous Waste Source Reduction

AFFECTED PROGRAM(S): P2

☐ New Program or Requirements

☒ Additional Requirements for an Existing Program

☐ Information Only

☐ Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2351-2400/ab_2379_bill_20100927_chaptered.pdf

Summary:

AB 2379 expands DTSC's source reduction technical assistance and outreach program from two priority industry categories every two years to four industry categories every two years and requires that one of the categories be one affected by the adoption of the Safer Consumer Product Alternatives regulations.

Specifically, this bill:

- Requires DTSC to expand its source reduction program by selecting at least four priority categories of generators every two years.
- Requires that at least one selected category of generators be a category that consists primarily of businesses affected by the adoption of the Safer Consumer Product Alternatives regulations.

Departmental Mandate(s):

- Requires DTSC to identify two additional priority categories of generators every two years, of which one needs to be a category of generators whose businesses are affected by the adoption of the Safer Consumer Product Alternatives regulations.



AB 2738, Chapter 398, Statutes of 2010 (Niello) – Regulations: Agency Statement of Reasons

AFFECTED PROGRAM(S): Policy

☐ New Program or Requirements

☐ Additional Requirements for an Existing Program

☒ Information Only

☐ Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2701-2750/ab_2738_bill_20100927_chaptered.pdf

Summary:

AB 2738 requires state agencies to describe whether a performance standard was considered as an alternative to a proposed regulation in the initial statement of reasons.

Specifically, this bill:

- Requires an initial statement of reasons to include a description of any performance standard that was considered as an alternative to the use of specific technologies or equipment, or the imposition of prescribed actions or procedures.
- Becomes effective on January 1, 2012 and sunsets on January 1, 2014.

Departmental Mandate(s):

- For information only.



SB 346, Chapter 307, Statutes of 2010 (Kehoe) – Hazardous Materials: Motor Vehicle Brake Pad Friction Materials

AFFECTED PROGRAM(S): Enforcement, P2

☒ New Program or Requirements

☐ Additional Requirements for an Existing Program

☐ Information Only

☒ Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0301-0350/sb_346_bill_20100927_chaptered.pdf

Summary

Beginning on January 1, 2014, SB 346 prohibits the sale of motor vehicle brake pads containing more than the statutory limits for cadmium, chromium VI, lead, mercury and its compounds, and asbestiform fibers. The bill establishes a time line that further limits the amount of copper allowed in motor vehicle brake pads. SB 346 also creates a certification program to ensure that motor vehicle brake pads are properly certified and labeled.

Specifically, this bill:

Brake Pads with Heavy Metals

- Prohibits the sale of any motor vehicle brake pads exceeding the following after January 1, 2014:
 - Cadmium and its compounds exceeding 0.01% by weight.
 - Chromium VI salts exceeding 0.1% by weight.
 - Lead and its compounds exceeding 0.1% by weight.
 - Mercury and its compounds exceeding 0.1% by weight.
 - Asbestiform fibers exceeding 0.1% by weight.
- Requires manufacturers of brake pads, on and after January 1, 2014, to certify that their brake pads are in compliance.
- Allows motor vehicle manufacturers, distributors and wholesalers, or retailers of replacement brake pads containing cadmium, chromium VI, lead, mercury and asbestos

until December 21, 2023 to deplete inventory.

Brake Pads with Copper

- Prohibits the sale of any motor vehicle brake pads containing greater than 5% copper by weight in the state after January 1, 2021.
- Prohibits the sale of any motor vehicle brake pads containing greater than 0.5% copper by weight in the state after January 1, 2025.

Advisory Committee for Extension Requests

- Allows manufacturers of brake pads to apply for an extension of 1, 2 or 3 years.
- Establishes procedural requirements for the consideration of the extension requests, including the creation of an advisory committee on or before January 1, 2019.
- Requires DTSC to assess a fee for each application that would cover costs incurred to implement extension requests.

Exemptions

- Exempts brake pads used for the following:
 - Military tactical support vehicles.
 - Vehicles with an internal closed oil immersed brake system or similar brake system that is fully contained.
 - Brakes designed to hold a vehicle stationary.
 - Motorcycles.
 - Vehicles subject to voluntary or mandatory recalls of brake friction materials or systems due to safety concerns. This exemption shall expire when the recall is lifted.
- Motor vehicles manufactured by small volume manufacturers (fewer than 4,500 passenger cars or trucks based on the average number of vehicles sold for the previous three consecutive model years).
- Vehicles manufactured prior to January 1, 2021, and brake pads used in those vehicles, from the prohibition of 5% copper.
- Vehicles manufactured prior to January 1, 2025, and brake pads used in those vehicles, from the prohibition of 0.5% copper.
- Vehicles with an approved extension.

Alternatives Screening

- Requires manufacturers to screen potential alternatives using the Toxics Information Clearinghouse when developing new brake pad formulations and to take into consideration the environmental fate of brake friction materials and their emissions through all phases of

the material life cycle.

- Requires manufacturers to provide DTSC, upon request, the screening analysis conducted for brake friction materials.

Brake Friction Material Certification and Labeling

- Requires DTSC, in consultation with the brake friction material manufacturing industry, to develop testing and product marking criteria and to adopt certification procedures.
- Requires, on and after January 1, 2014, January 1, 2021, and January 1, 2025, all manufacturers of friction materials to obtain certification of each formulation for brake friction materials from a testing certification agency and provide labeling on brake friction materials.
- Prohibits manufacturers from selling their products in the state until their certification(s) for each brake friction material have been filed with a testing certification agency.

Enforcement

- Allows DTSC to assess civil penalties up to \$10,000 per violation.
- Requires DTSC to remove from sale any noncompliant brake pads.
- Allows a distributor, wholesaler, or retailer, as a defense to any alleged violation, to establish that it exercised due diligence in attempting to verify the brake pads were compliant.
- Requires DTSC to take into consideration the number of noncompliant brake pads offered for sale and whether previous violations have occurred.
- Allows DTSC to waive assessing any penalties and instead issue a warning.
- Requires a distributor, wholesaler or retailer found to have offered for sale noncompliant brake pads to cooperate with DTSC in removal of the brake pads and inform DTSC of measures implemented to avoid repeat violations, and provide information that will assist in the identification and location of source(s) of noncompliant brake pads.
- Prohibits DTSC from recalling automobiles in enforcing these provisions.
- Requires an automobile manufacturer that violates this article to notify the registered vehicle owner within six months and replace the brake pads at no cost to the owner.

Report to the Legislature

- Requires DTSC and the SWRCB to submit a report to the Governor and Legislature by January 1, 2023, on the implementation of vehicle brake copper reduction efforts and the progress of meeting the copper TMDLs in the state. The report is to make specific recommendations on actions needed to address any deficiencies in meeting the copper TMDL.

Departmental Mandate(s):

- Requires DTSC to investigate and respond to non-compliance with the brake pad requirements, and the brake pad copper, lead, mercury, chromium, cadmium, or asbestiform content standards.
- Requires DTSC to establish certification and labeling requirements for motor vehicle brake pads regarding their content of copper, lead, mercury, chromium, cadmium, or asbestiform.
- Requires DTSC, if needed, to coordinate with Cal/EPA to establish an advisory committee for extension requests.
- Requires DTSC to coordinate with SWRCB to submit a report to the Legislature and the Governor regarding the implementation of vehicle brake copper reduction efforts and make recommendations on actions necessary to address deficiencies of the program.



SB 855, Chapter 718, Statutes of 2010 (Committee on Budget and Fiscal Review) – Budget: Resources

AFFECTED PROGRAM(S): Admin

☐ New Program or Requirements

☐ Additional Requirements for an Existing Program

☒ Information Only

☐ Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0851-0900/sb_855_bill_20101019_chaptered.pdf

Summary:

SB 855 allows DTSC to fund its regulatory activities related to consumer products and packaging using funds in the Toxic Substances Control Act (TSCA).

Specifically, this bill:

- Clarifies that all penalties collected associated with lead in jewelry, lead wheel weights, and toxics in consumer product packaging be deposited into TSCA.
- Authorizes the funds in TSCA to also be used by DTSC for activities of the department related to pollution prevention and enforcement of California statutes that prohibit lead in jewelry, lead wheel weights, and toxics in consumer packaging.
- Gives DTSC flexibility to pursue legal services in specified circumstances where a violation has occurred in the case of a release of hazardous waste or constituents into the environment from a hazardous waste facility.

Departmental Mandate(s):

- For information only.



SB 929, Chapter 313, Statutes of 2010 (Pavley) – Hazardous Materials: Children’s Jewelry: Heavy Metals

AFFECTED PROGRAM(S): Enforcement, P2

☐ New Program or Requirements

☒ Additional Requirements for an Existing Program

☐ Information Only

☐ Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0901-0950/sb_929_bill_20100927_chaptered.pdf

Summary:

SB 929 prohibits the manufacture, shipping, sale or offering for sale or offering for promotional purposes children’s jewelry containing cadmium in a component exceeding 300 ppm by weight as of January 1, 2012.

Specifically, this bill:

- Prohibits as of January 1, 2012, the manufacture, shipping, sale, or offering for sale or offering for promotional purposes children’s jewelry containing any component or made of any material that is more than 300 ppm cadmium by weight.
- Exempts toys regulated for cadmium exposure under the Consumer Product Safety Improvement Act of 2008.
- Allows DTSC to establish regulatory standards for cadmium in children’s jewelry or for a component of children’s jewelry that is more protective for public health, sensitive subpopulations, or the environment.
- Clarifies that signatories to the amended consent judgment in the case of The People vs. Burlington Coat Factory Warehouse Corporation, are not exempt from the new provisions prohibiting cadmium in children’s jewelry.
- Adds cadmium in the certification and testing provisions for children’s jewelry.
- Does not limit, supersede, duplicate, or otherwise conflict with the authority of DTSC to fully implement the Safer Consumer Product Alternatives regulations.
- Prohibits cadmium-containing jewelry from being considered as a product category already

regulated or subject to pending regulations for purposes of the Safer Consumer Product Alternatives regulations.

Departmental Mandate(s):

- Requires DTSC to investigate and respond to non-compliance with the children's jewelry requirements, and children's jewelry that exceeds the allowable limits of cadmium.
- Authorizes DTSC to reduce the cadmium standard for children's jewelry through regulation if necessary.